

SPILL# 0750373

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Alleged Violations of
Articles 17 of the New York State Environmental
Conservation Law, and Title 6, Parts 612-614 of
the New York Codes, Rules and Regulations

ORDER ON
CONSENT

Case No. 7-186619

-by-

Jasvir Kaur, Respondent.

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is a department of the State of New York which, pursuant to Titles 3 and 10 of Article 17 of the Environmental Conservation Law (ECL), is authorized to regulate the storage and handling of petroleum in the State of New York.
2. Respondent, Jasvir Kaur is a person authorized to do business in the State of New York, who owns and/or operates a Petroleum Bulk Storage facility located at 400 Court Street, Binghamton.
3. The Department Staff conducted an inspection of the facility on June 11, 2007 and discovered numerous violations, including failure to transfer ownership, failure to maintain leak detection, failure to have as-builts, failure to have 614 tank labels, failure to maintain cathodic protection, failure to report spills, failure to maintain inventory, failure to do monthly inspections on AST and failure to properly label and maintain ASTs.
4. ECL §71-1929 provides for a penalty of up to thirty-seven thousand five hundred dollars (\$37,500.00) per day for each violation of Titles 1 through 11 inclusive and Title 19 of Article 17, or the rules or regulations promulgated thereto by the Commissioner of the Department.
5. In settlement of Respondent's civil liability for the aforesaid violation, Respondent admits to the violations noted above and has waived its right to a hearing herein as provided by law and has consented to the issuing and entering of this Order on Consent ("Order") pursuant to the provisions of Articles 17, 19 and 71 of the ECL and has agreed to be bound by the provisions, terms and conditions herein.

NOW, being duly advised and having considered this matter, THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HEREBY ORDERS THAT:

I. PENALTIES

- A. Respondent is hereby assessed a civil penalty in the amount of Five Thousand (\$5,000) DOLLARS for the violations stated herein, which shall be paid to the Department upon Respondent's signing of this Order and its return to the Department.

- B. In the event that the Respondent fails to fully comply with the requirements of the Order in a timely fashion, Respondent shall be subject to penalties of up to \$37,500 per day pursuant to ECL §71-1929, without prejudicing the Department from seeking further appropriate penalties for violations of this Order by Respondent. Payment of the above penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order.
- C. Respondent shall pay the amount of the penalties to the Department by certified check made payable to: New York State Department of Environmental Conservation, Division of Environmental Enforcement, 625 Broadway, 14th Floor, Albany, N.Y. 12233-5500, Attn: Benjamin A. Conlon.

II. COMPLIANCE

Within 60 days of the effective date of the Order, Respondent shall properly close and remove the USTs at the facility in compliance with 6 NYCRR 613.9, and shall submit closure reports to the Department within 90 days of the effective date of the Order.

III. STANDARD PROVISIONS

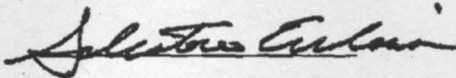
Respondent shall further comply with the standard provisions which are attached, and which constitute material and integral terms of this Order and are hereby incorporated into this document.

DATED: Albany, New York

JUL 30, 2007

New York State Department of
Environmental Conservation

By:



CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order without further notice, waives its right to a hearing herein, and agrees to be bound by the terms, conditions and provisions contained in this Order.

Jasvir Kaur, Respondent

By (Signature): JASVIR KAUR

Print Name: JASVIR KAUR

Title: Owner

Date: 7.16.2007

ACKNOWLEDGMENT

STATE OF NEW YORK)
COUNTY OF Broome) ss:

On the 16 day of July in the year 2007 before me personally came Jasvir Kaur to me known, who, being by me duly sworn, did depose and say that s/he resides in Binghamton, New York; that s/he is the owner of Petroleum Bulk Storage, the corporation described in and which executed the above instrument; and that s/he signed his/her name thereto by authority of the board of directors of said corporation.

Margaret A Gill
Notary Public
Signature and Office of individual taking acknowledgment



STANDARD PROVISIONS

Payment. Any penalty assessed pursuant to the terms and conditions of this Order shall be paid by submitting a certified or cashier's check or money order, payable to the Department of Environmental Conservation, to: Department of Environmental Conservation, Division of Environmental Enforcement, Attn: Benjamin Conlon, Esq., 625 Broadway, Albany, New York 12233-5550. Unpaid penalties imposed by this Order shall bear interest at the rate of 9 percent per annum for each day the penalty, or any portion thereof, remains unpaid. Payments received shall first be applied to accrued interest charges and then to the unpaid balance of the penalty.

Communications. Except as otherwise specified in this Order, any reports, submissions, and notices herein required shall be made to: NYS Department of Environmental Conservation, Division of Environmental Enforcement, Attn: Benjamin Conlon, Esq., 625 Broadway, Albany, NY 12233-5550.

Duration. This Order shall take effect when it is signed by the Commissioner of Environmental Conservation, or his designee, and shall expire when Respondent has fully complied with the requirements of this Order.

Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site, or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

Force Majeure. If Respondent cannot comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe, or other condition which was not caused by the negligence or willful misconduct of Respondent and which could not have been avoided by the Respondent through the exercise of due care, Respondent shall apply in writing to the Department within a reasonable time after obtaining knowledge of such fact and request an extension or modification of the deadline or requirement.

Indemnity. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs resulting from the acts and/or omissions of Respondent, intentional, negligent, or otherwise, of every nature and description, arising out of or resulting from the compliance or attempted compliance with the provisions of this Order by Respondent or its employees, servants, agents, successors or assigns.

Modifications. No change in this Order shall be made or become effective except as specifically set forth by written order of the Commissioner, being made either upon written application of Respondent, or upon the Commissioner's own findings after notice and opportunity to be heard have been given to Respondent. Respondent shall have the burden of proving entitlement to any modification requested pursuant to this Standard Provision or the "Force Majeure" provision, *supra*. Respondent's requests for modification shall not be unreasonably denied by the Department, which may impose such additional conditions upon Respondent as the Department deems appropriate.

Other Rights. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; (3) any right of the Department to bring any future action, either administrative or judicial, for any other violations of the ECL, the rules and regulations promulgated thereunder, or conditions contained in orders or permits, if any, issued by the Department to Respondent; (4) the summary abatement powers of the Department, either at common law or as granted pursuant to statute or regulation.

Entire Agreement. This Order shall constitute the entire agreement of the Department and Respondent with respect to settlement of those violations specifically referenced herein.

Binding Effect. The provisions, terms, and conditions of this Order shall be deemed to bind Respondent and Respondent's heirs, legal representatives, receivers, trustees in bankruptcy, successors and assigns.

Service. If Respondent is represented by an attorney with respect to the execution of this Order, service of a duly executed copy of this Order upon Respondent's attorney by ordinary mail shall be deemed good and sufficient service.

Multiple Respondents. If more than one Respondent is a signatory to this Order, use of the term "Respondent" in these Standard Provisions shall be deemed to refer to each Respondent identified in the Order.

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



7-186619 20/3

US DOLLAR DRAFT
(OFFICIAL CHECK)

BALDEV KUMAR

JULY 17, 2007

No. 396480207

REMITTER

DATE

\$5000.00

18-4319
1220

PAY

~~5000~~ 5,000 AND 00 CTS

U.S. DOLLARS

TO: NY STATE DEPT OF ENVIROMENTAL
THE CONSERVATION, DIVISION OF
ORDER ENVIRONMENTAL ENFORCEMENT
OF
ATTN: BENJAMIN A CONLON

Drawers: HSBC Bank USA, N.A.
TWO SIGNATURES REQUIRED FOR AMOUNT \$50,000 AND ABOVE

Lianna Poble
AUTHORIZED SIGNATURE

Issued by Integrated Payment Systems Inc., Englewood, Colorado
Processed through HSBC Bank USA, N.A., Los Angeles, CA

AUTHORIZED SIGNATURE

⑈700432⑈ ⑆122043⑆ 68003964802076⑈

HANCOCK & ESTABROOK, LLP
COUNSELORS AT LAW

Writer's Direct Dial No.: 315-471-3151
EMAIL: haustin@hancocklaw.com

July 17, 2007

VIA FEDERAL EXPRESS

NYSDEC
Division of Environmental Enforcement
Attn: Benjamin A. Conlon
625 Broadway, 14th Floor
Albany, NY 12233-5500

Re: **Jasvir Kaur**
Case No. 7-186619

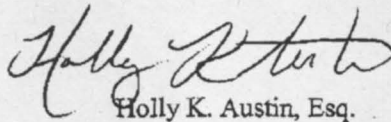
Dear Ben:

Per our discussion, enclosed please find the executed Order on Consent relative to 400 Court Street, Binghamton, NY, together with a check for \$5,000.

Please contact me with any questions.

Very truly yours,

HANCOCK & ESTABROOK, LLP


Holly K. Austin, Esq.

HKA/slp
Enclosures